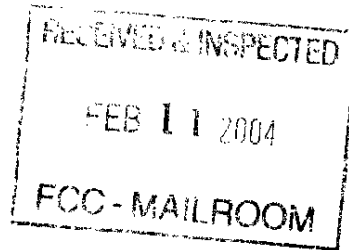


EX PARTE OR LATE FILED



ORIGINAL

February 9, 2004

Marlene H. Dortch
Secretary of the Commission
Federal Communications Commission
Washington, D.C.

C/O
9300 East Hampton Drive
Capitol Heights, MD 20743

Re: Docket WT 03-128
Nationwide Programmatic Agreement Regarding Section 106

Dear Ms. Dortch:

Attached (three pages) is an ex parte communication in Docket No. WT 03-128, which I am providing to you on behalf of the American Cultural Resources Association.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jo Reese".

Jo Reese, Chair
ACRA Cell Tower Subcommittee

Attachment

AMERICAN CULTURAL RESOURCES ASSOCIATION
6150 East Ponce de Leon Avenue
Stone Mountain, Georgia 30083

No. of Copies rec'd _____
List A B C D E

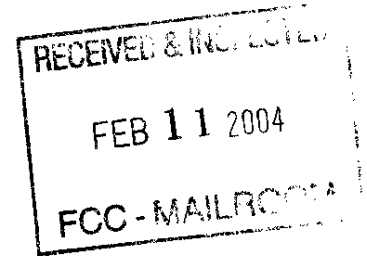
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EX PARTE OR LATE FILED



American Cultural Resources Association
A Professional Business Organization

27 January 2004



Mr. Jeffrey Steinberg
Federal Communications Commission
445 12th Street SW
Washington, D.C. 20554

Re: Comments on Draft Nationwide Programmatic Agreement Regarding the Section 106
National Historic Preservation Act Review Process

Dear Mr. Steinberg:

The American Cultural Resources Association (ACRA) appreciates the opportunity to provide its opinion and recommendations regarding the FCC's proposals to address the telecommunication industry's concerns related to the National Historic Preservation Act. Our representatives have provided advice, comments, and recommendations throughout the process of creating the currently proposed nationwide programmatic agreement, and continue to have ideas for consideration by the members of the Telecommunications Working Group.

The proposal that ACRA is now submitting is intended to address the concerns of all participants in the programmatic agreement. We are hopeful that this and additional ideas may help if an impasse has occurred among the agencies and groups that are responsible for carrying out the cultural resource studies and reviews. On behalf of our organization, ACRA's Cell Tower Subcommittee offers the attached proposal.

Please feel free to contact me if you have any questions. My telephone number is 520.721.4309 and my e-mail is cdore@sricrm.com. You also may contact the Chair of ACRA's Cell Tower Subcommittee, Ms. Jo Reese, at 503.761.6405 or via e-mail at jo@ainw.com. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Christopher D. Dore".

Christopher D. Dore, Ph.D., RPA
President

AMERICAN CULTURAL RESOURCES ASSOCIATION

MEMO

Date: January 27, 2004

To: Jeffrey Steinberg and Frank Stilwell, WTB-Federal Communications Commission
Charlene Vaughn, Advisory Council on Historic Preservation
Nancy Miller Schamu, National Conference of State Historic Preservation Officers

From: Jo Reese, Cell Tower Subcommittee Chair, American Cultural Resources Association

Re: Draft Nationwide Programmatic Agreement
Comments for Telecommunications Working Group Meeting January 29, 2004

On behalf of the American Cultural Resources Association (ACRA), I extend my appreciation for the opportunity to provide written comments to aid in working on continuing disagreements among members of the TWG regarding the Nationwide Programmatic Agreement Review of Effects on Historic Properties for Undertakings (PA) that is under consideration by the Federal Communications Commission, Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers.

The objective of Section 106 of the National Historic Preservation Act is to protect significant historic properties, and the PA is intended to provide a clearly understood process that identifies these important resources and considers the effects cellular facilities may have on them so that the effects may be addressed. This acknowledges that both historic properties and cellular facilities are important to the Nation.

Recently, comments have been submitted to the Council, the FCC, and the NCSHPO, that suggest the burden of identifying significant historic resources, assessing the effect the cellular facility may have on them, and providing mitigation of an adverse effect has been disproportionate to the undertaking itself. The PA has addressed this, but there are ways to reduce the level of effort, if compromise can be made.

Representatives Richard Pombo and George Radanovich have, in their November 26, 2003, letter, implied that Section 106 should only address effects upon those resources that have been listed in the National Register of Historic Places or that have been determined eligible by the Keeper of the Register. During the past two decades or longer, however, significant resources have not been placed on the National Register because the rules allow consideration of the effects of undertakings without spending tax dollars to process the nomination. Federal agencies have *saved the taxpayers money by not submitting nominations to the Keeper*.

I hope that the TWG can acknowledge that in the past, many National Register-eligible resources have been inventoried but have not been nominated, and concede that there are significant resources that deserve recognition and protection but that have not been noted in the records of the Keeper of the Register or in the files of the SHPOs. I suggest that significant unlisted resources as well as listed resources be recognized so that potential impacts to them by a cellular facility can be reduced or avoided.

Proposed Concept:

The level of work would be reduced to identify only those properties that would be eligible for listing in the National Register and on which the undertaking would have either no effect or the effect would not be adverse, *provided that* the study be done by personnel who meet the professional qualifications standards of the Secretary of Interior. The reporting requirements could be shortened, the cost would be reduced, and this would address concerns that non-eligible resources are getting documented at the expense of the cellular and tower industry. By relying on those who are ready to submit their credentials for review by the SHPOs, each SHPO would accept the work of these professionals. The SHPO can then focus on those relatively few proposed facilities where there is potential for an adverse effect, and work with the cellular or tower applicant to minimize impacts.

I am hopeful that this proposed concept may be addressed during the present review period of the PA. I respectfully submit that this would have as an outcome the reduction of the level of work and would also provide consideration of potential impacts to archaeological sites, historic buildings and features, districts, and traditional cultural properties in a timely manner.

CC: Christopher D. Dore, President, ACRA
Tom Wheaton, Executive Director, ACRA
ACRA Cell Tower Subcommittee members

Contact information for Jo Reese

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www.ACRA-CRM.org